

**Testimony of
Christopher Cox, Chairman
Select Committee on Homeland Security**

**Before the Subcommittee on Technology and the House
Committee on Rules
U.S. House of Representatives**

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Thank you, Chairman Linder and Ranking Member McGovern, for this opportunity to share with you my thoughts on Rule X. As Chairman of the Select Committee on Homeland Security, I will focus my remarks on the inadequacy of current Rule X jurisdictional statements on critical homeland security issues.

President Bush has reminded us repeatedly since September 11th that global terrorism is a long-term threat that will require a strong and sustained counter-punch from the U.S. government. This is why he established the Department of Homeland Security (DHS). This is why Congress in November 2002 passed the Homeland Security Act to build a strong DHS counterterrorism capability to prevent, protect and respond. This is why Speaker Hastert proposed the establishment of the Select Committee on Homeland Security in this House. We need to focus our efforts in the Federal government and in the Congress on an enduring terrorist threat that will become ever more worrisome with the advances in technology over the next several years.

Since September 11, bin Laden has issued periodic tapes that have been authenticated as his own voice.

On October 7, 2001, just a few weeks after September 11th, Osama bin Laden said this:

"America has been hit by Allah at its most vulnerable point, destroying its most prestigious buildings. I swear by god that America and those who dream of America won't dream of having security."

Then just a few weeks later in December:

"We calculated in advance how many of the enemy would be killed based on the position of the tower."

In January 2002:

"The battle has moved inside America. We will continue this battle until victory or until we meet god."

And, on May 19, 2002:

“The war is between us and the Jews. Any country that steps into the same trench as the Jews has only itself to blame.”

And, then, on February 11, 2003:

“All those who cooperate with the Americans against Iraq are hostile to Islam. We stress the importance of martyrdom operations against the enemy. These attacks have scared American, and Israelis, like never before.”

And then just a few weeks ago, on May 7th of this year:

“We of the Al Qaeda organization are committed to giving a prize of then thousand grams of gold to whoever kills Bremer or his deputy or the commander of the US forces or his deputy in Iraq.”

Mr. Chairman, today, as I speak, our military forces and private citizens are under direct terrorist attack in the Middle East and Central and South Asia. The assumption behind all that we have done in our government and Congress since September 11 is that the threat of international terrorism will be with us for a long, long time. Moreover, a consistent finding of several post mortems—including the 9/11 Commission that is holding its last hearing today—is that our government was not structured or prepared for the Al Qaeda attacks on 11 September 2001.

The terrorist attacks on September 11th succeeded because our enemies shrewdly sought out and exploited the gaps in our security posture – gaps that were created by outdated and overly rigid jurisdictional boundaries in the Executive Branch and the lack of effective coordination and information sharing across them.

Congress moved swiftly to address those Executive Branch problems by creating the Department of Homeland Security, putting multiple border security agencies – such as the Customs Service, the Coast Guard, TSA, INS, APHIS, and the Border Patrol – into a single, new Department, with one overarching mission to prevent the entry of terrorists and weapons of mass destruction into our country. Remarkably, prior to September 11th, no Federal agency had such a mission. To the extent that it was recognized at all, various parts of this mission were subsumed within the broader mandates of the Departments of Justice, State, Transportation, Agriculture, Treasury, and Energy. Thus there was no overall focus and limited coordination.

Some believe that the President’s proposal to create DHS was not a good idea. I am not one of them. The prior organizational structure simply was doomed to failure, with too many stove-pipes and with no one looking at the gaps between them or how each existing entity fit into the larger system. The President acted boldly to propose reform over what I can only imagine were quite heated internal debates between the

White House and the various Cabinet departments that stood to lose some of their authority to the new Department. And Congress responded, enacting the largest government reorganization in 50 years less than six months after receiving the President's formal request.

But in reforming the Executive Branch, Congress did not act to reform its own outdated system of jurisdiction and authority, as embodied in Rule X, to accommodate or reflect the new homeland security mission. Rather, it created the Select Committee which I chair, and tasked my Committee with the responsibility for reviewing Rule X and recommending any necessary changes by September 30th of this year.

The Select Committee's Subcommittee on Rules, under the able leadership of Chairman Lincoln Diaz-Balart, has held a series of hearings over the past year to examine related issues. I will be working closely with him and the other Members of my Committee this summer to put together some recommendations on how to reflect the new homeland security mission within the Rule X structure. Accordingly, it would be premature for me to discuss any such recommendations today.

Instead, I will use this opportunity to set forth some of the problems with homeland security-related jurisdiction in the House. Because Rule X has not been revised to reflect creation of the new Department and the consolidation and restructuring of legacy functions, and because the Congress has tended to organize itself in a manner consistent with the Executive Branch, it is not surprising that Rule X's problems in the homeland security area tend to mirror those that existed in the Executive Branch prior to the creation of DHS.

It is important to remember that the homeland security mission, as such, is largely unprecedented. For example, no existing committee has jurisdiction over the mission of preventing the entry of terrorists and weapons of mass destruction into our country. Rather, as with the Executive Branch prior to September 11th, numerous committees have jurisdiction over parts of this or related missions, by virtue of their much broader jurisdictional mandates.

For example, the Ways and Means Committee claims partial jurisdiction over security at ports of entry by virtue of its Rule X jurisdiction over "customs, collection districts, and ports of entry and delivery," which was carried out by the former Customs Service in the Department of Treasury. The Agriculture Committee makes the same claim by virtue of its jurisdiction over "animal industry and diseases of animals," "plant quarantine," and inspection of livestock, meat and seafood. These border functions are handled by APHIS, which had been part of the Department of Agriculture. The Judiciary Committee, too, can make the same claim by virtue of its jurisdiction over "immigration and naturalization," which was carried out by the former INS in the Department of Justice.

Both the Energy and Commerce and Science committees can claim pieces of this jurisdiction as well, due to the research and development programs of the Department of

Energy and the national laboratories aimed at enhancing such security. And the Transportation and Infrastructure Committee, with its jurisdiction over transportation, aviation, and the Coast Guard, has at least partial responsibility for safeguarding the various transportation modes connecting to and through such ports of entry, as well as for the maritime environment surrounding such ports.

That is six committees with putative jurisdiction over discrete aspects of what we in Homeland Security call the border security mission, but no single permanent committee focused on how well – or how poorly – these separate missions are being integrated into an effective border security system. One could undertake similar analyses with respect to other homeland security missions – whether it's first responder preparedness for acts of terrorism, or critical infrastructure protection. In each case, we have multiple committees with discrete homeland security jurisdictional portfolios and interests that are part of larger jurisdictional missions not squarely focused on homeland security at all.

Moreover, homeland security is much more than the sum of the pre-existing legacy agency relationships with their traditional committees of jurisdiction. Likewise, DHS is more than simply the aggregation of previously independent entities. DHS was given new missions in the Homeland Security Act – missions that go well beyond the confines of existing Rule X jurisdictional statements. Indeed, words and terms such as “homeland security,” “terrorism,” “weapons of mass destruction,” “border and port security,” “critical infrastructure protection,” “cyber security,” and “information sharing and analysis,” appear nowhere in Rule X.

Rule X must be updated to deal with the new reality of the current Executive Branch organization, and the critical new mission of homeland security – which, unfortunately, is not a fad and will be with us for generations. DHS is in the course of implementing a new strategic approach to homeland security built upon the notion of a layered defense, in which each piece of the puzzle fits with each of the other pieces to form an integrated and seamless security mosaic. While we could rely on a patchwork system of referrals and sequentials to address such homeland security issues among the various committees, the Select Committee was unable to find any scholars or experts in Congressional procedure and practice, or any former Speaker, who advocated such an approach during a series of hearings we held on this issue over the past year. The issue of homeland security is simply too important to perpetuate such Balkanization of Congressional authority, responsibility, and accountability.

I look forward to working closely with this Committee as the House considers how best to handle jurisdictional reform in the context of homeland security issues. As we do so, let us not forget the repeated warnings of Osama bin Laden. This House must take those and other threats, against this country, seriously.

Thank you for this opportunity to share my initial thoughts.